



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

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To: Shauna Boliker, ASA, Chief, Criminal Prosecutions Bureau
Jack Blakey, ASA, Chief, Special Prosecutions Bureau
Patrick Driscoll, ASA, Chief, Civil Actions Bureau
Tisa Morris, ASA, Chief, Juvenile Justice Bureau
Brian Sexton, ASA, Chief, Narcotics Prosecution Bureau
All Supervisors, Criminal Prosecutions Bureau

From: Joe Magats, ASA, Deputy Chief, Criminal Prosecutions Bureau

Re: Giglio Material Regarding Chicago Police Officers Slawomir Plewa, Robert Jackson and Gerald Lodwich

Date: September 24, 2010

Cc: Adrienne Mebane, First Assistant
Walt Hehner, Chief Deputy
Dan Kirk, Chief of Staff

On August 19, 2010 Judge Michael Brown, in the case of The People of the State of Illinois v. Slawomir Plewa, Case No. 08CR-19286, made specific findings that Chicago Police Officers Slawomir Plewa, Star No. 14604 and Gerald Lodwich, Star No. 6958 lied and gave false testimony in the Plewa case as well as lied and gave false testimony in the case of The People of the State of Illinois v. Sylwia Marcinczyk, Case No. 07CR-8869.

In his findings in the Plewa case, Judge Brown also stated that Chicago Police Officer Robert Jackson, Star No. 15556 lied and gave false testimony in the Marcinczyk case. In the Plewa case, Judge Brown acquitted Officer Plewa of the offenses of Perjury, Official Misconduct and

Obstruction of Justice for conduct arising out of the Marcinczyk case. In doing so Judge Brown made the specific findings regarding Officers Plewa, Lodwich and Jackson.

Pursuant to Brady v. Maryland, 373 US 83 (1963) the prosecution's disclosure of exculpatory information is part of the constitutional right to a fair trial. This duty of disclosure also includes evidence that may impeach the credibility of a prosecution witness. Giglio v. United States, 405 U.S. 150, 154 (1972).

In light of the existing case law, Judge Brown's findings regarding the officers are Giglio material as "impeachment of a witness can make the difference between acquittal and conviction...where credibility is the central issue in the case and the evidence presented at trial consists of opposing stories presented by the defendant and government agents." United States v. Kiszewski, 877 F.2d 210, 216 (2nd Cir. 1985).

I have attached a Notice of Disclosure, as well the transcript of Judge Brown's findings that is to be filed with the court and tendered to the defense in all cases where any of the three officers are going to be called as witnesses. A copy of the transcript where Judge Brown made his findings is attached to the Notice of Disclosure. I will also send an email to each of you with the Notice of Disclosure attached.

Please make sure that your assistants file and tender to the defense the Notice of Disclosure in all cases where any of the three officers are or will be witnesses. Additionally the material should be filed and tendered in any case where any of the three officers have testified since August 19, 2010.

Also please remind your ASAs that the mere fact that this Giglio material is discoverable and has been tendered to the defense does not in and of itself mean that the defense can introduce the evidence at trial or cross-examine any of the officers on the material. Your ASAs should, in the appropriate cases, file all necessary motions to preclude the use of the Giglio material at trial.

The case law in this area is, of course, set out in United States v. Brady, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). The timing of disclosure is governed by Weatherford v. Bursey, 429 U.S. 545 (1997). What needs to be disclosed is discussed in United States v. Agurs, 427 U.S. 97 (1976); United States v. Diaz, 922 F.2d (2nd Cir. 1990); United States v. Veras, 51 F.3d 1365 (7th Cir. 1995) and United States v. Kiszewski, 877 F.2d 210 (2nd Cir. 1989). Limiting the use of this type of information is discussed in People v. Driskell, 213 Ill.App.3d 196 (4th Dist. 1991) and People v. Fonza, 217 Ill.App.3d 883, 892 (1st Dist. 1991).

STATE OF ILLINOIS)
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 SS.
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS)
)
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vs) Case No. _____
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NOTICE OF DISCLOSURE TO THE DEFENDANT

Now come the People of the State of Illinois by their attorney Anita Alvarez, State's Attorney of Cook County, Illinois, through her assistants / and / hereby disclose to the defendant as follows:

1. On August 19, 2010, Judge Michael Brown, in the case of The People of the State of Illinois v. Slawomir Plewa, Indictment No. 08CR-19286 found that Chicago Police Officer(s) Slawomir Plewa, Star No. 14604/Gerald Lodwich Star No. 6958 lied and gave false testimony in the Plewa case as well as lied and gave false testimony in the case of The People of the State of Illinois v. Sylwia Marcinczyk, Indictment No. 07CR-8869.

2./1. On August 19, 2010, Judge Michael Brown, in the case of the The People of the State of Illinois v. Slawomir Plewa, Indictment No. 08CR-19286 found that Chicago Police Officer Robert Jackson, Star No. 6958 lied and gave false testimony in the case of The People of the State of Illinois v. Sylwia Marcinczyk, Indictment No. 07CR-8869.

3./2. A copy of the transcript of Judge Brown's findings with respect to Officer(s) Plewa/Lodwich/Jackson is attached as Exhibit A.

Respectfully submitted,

Anita Alvarez
State's Attorney of Cook County

By:

Assistant State's Attorney

Assistant State's Attorney